

CHAPTER 5
IOWA INDUSTRIAL NEW JOBS TRAINING PROGRAM

[Prior to 1/14/87; Iowa Development Commission[520] Ch 5]

261—5.1(15,260E) Authority. The authority for rules governing the development of training projects under the Iowa industrial new jobs training Act and the operation of the program is provided in Iowa Code sections 260E.7 and 15.108(6)“a.”

261—5.2(15,260E) Purpose. The purpose of the Act is to provide training for employees in new jobs with industries locating or expanding operations in Iowa and an incentive to industries considering locating or expanding operations in Iowa. The goal of the training should be skill development and enhancement for Iowa’s workforce. The Iowa department of economic development is required to coordinate the training programs described in the Act.

261—5.3(15,260E) Definitions.

“*Act*” means Iowa Code chapter 260E.

“*Agreement*” means an agreement between an employer and a community college concerning a project and includes any written agreement, or amendment thereto, whether deemed by the parties to be preliminary or final.

“*Base year*” means, for the purpose of determining incremental property tax available to fund in part the jobs training agreement, the assessment rolls as of January 1 of the year preceding the first written agreement filed with the county assessor where the property is located or such other valuation as may be determined by the appropriate assessor as provided in Iowa Code section 403.19(1)“c.”

“*Board of directors*” means the board of directors of a community college.

“*Certificate*” means an industrial new jobs training certificate issued pursuant to Iowa Code section 260E.6.

“*Community college*” means a community college established under Iowa Code chapter 260C.

“*Date of commencement of the project*” means the date of the agreement.

“*Department*” means the Iowa department of economic development. Contacts with the department regarding activities referenced in this chapter shall be through the division of administration, workforce development team.

“*Employee*” means the person employed in a new job.

“*Employer*” means the company providing new jobs in the merged area served by the community college and entering into an agreement.

“*Expanding industry*” means an industry which will require the addition of new jobs which did not exist in that industry in Iowa prior to the signing of an agreement for training and which exceeds the level of employment in that industry six months prior to the date of the agreement.

“*Formerly existing jobs*” means jobs that were part of the payroll of the industry within the state any of the time during the six months prior to the signing of an agreement for training. Jobs which formerly existed do not qualify for training under the provisions of Iowa Code section 260E.2, subsection 15.

“Incremental property taxes” means the taxes as provided in Iowa Code sections 403.19 and 260E.4.

“Industry” means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, or professional services. An industry is a business engaged in activities described as eligible in the Act rather than the generic definition encompassing all businesses in the state doing the same activities. An industry is considered to be a single, corporate entity or operating subdivision. An industry which closes or substantially reduces its operation in one area of the state of Iowa and relocates substantially the same operation in another area of the state is not eligible for a project. This definition does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

“New industry” means an industry which has not done business in Iowa or an existing industry implementing a new process and product used or produced for the first time in Iowa, which results in the creation of new jobs not previously available in that industry in the state.

“New job” means a job in a new or expanding industry but does not include jobs of recalled workers, or replacement jobs or other jobs that formerly existed in the industry in the state of Iowa. A new job shall be as defined in the Act subject to the clarifications of new and expanding industry described in subrules 5.3(11), 5.3(14), and 5.3(15) above, except that an industry in violation of state or federal labor laws or involved in a lockout or strike in Iowa shall not be eligible for a training program under the Act.

“New jobs credit from withholding” means the credit as provided in Iowa Code section 260E.5.

“New jobs training program” or *“program”* means the project or projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the merged area served by the community college. The proceeds of the certificates, as authorized by the Act, shall be used only to fund program services related to training programs made necessary by the creation of new jobs.

“Program services” includes but is not limited to the following:

1. New jobs training.
2. Adult basic education and job-related instruction.
3. Vocational and skill-assessment services and testing.
4. Training facilities, equipment, materials, and supplies.
5. On-the-job training.
6. Administrative expenses for the new jobs training program.
7. Subcontracted services with institutions governed by the board of regents, private colleges or universities, or other federal, state, or local agencies.
8. Contracted or professional services.
9. Issuance of certificates.

“Project” means a training arrangement which is the subject of an agreement entered into between the community college and an employer to provide program services.

261—5.4(15,260E) Agreements.

5.4(1) Notification. The community college shall notify the department of all agreements deemed to be final and ready for project funding by sending a copy of the notice of agreement to the department within 30 days of the execution by all parties. The corresponding official statement will be sent when it is completed. The notice of final agreement shall provide all pertinent training services and financial details in the manner determined by the department. The notice shall be signed by the community college officials authorized by the college. All written agreements shall also be reported and verified through updates by the college, provided in a time frame specified by the department, in the same manner that the annual report is provided to the department. Except where otherwise prescribed in these rules, the department, in conjunction with the community colleges, shall develop a format and timetable for reporting relevant information to the department. Such reporting shall include, but shall not be limited to, information and official statements with respect to all final agreements and related certificate sales, information regarding college procedures for training agreement review and training project monitoring, as well as documentation of identified events of default, remedies and repayment policies.

5.4(2) Additional agreement items. In addition to the provisions of an agreement described in Iowa Code section 260E.3, subsections 1 to 5, the agreement shall include the following items:

- a. The length of time each new job category will be provided on-the-job training.
- b. The completion date of all other training.
- c. If the supplemental new jobs credit is to be utilized as authorized in Iowa Code section 15.331 and 261—Chapter 58, the agreement must be signed by the business(es), community college, and the department of revenue and finance for the use of an additional 1½ percent withholding to educate and train new employees.

5.4(3) Compliance with department of revenue and finance requirements. When an agreement for training is deemed final and ready for project funding, the community college shall notify the department of revenue and finance within 30 days of the date of execution of the agreement. Notification must be in writing on forms and in the manner determined by the department of economic development and is considered complete when response has been received on each item.

If, at any time after notification, the estimates are revised, or if changes are made in the agreement that would affect the above reporting requirements, the department of revenue and finance and the department shall be notified within 30 days.

5.4(4) Coordination with the relevant agencies.

- a. Before a project is implemented, the community college shall notify the local Job Training Partnership Act administrative entity and job service.
- b. Evidence of coordination of effort shall be provided to the department on the notification form as described in 5.4(1) above.

5.4(5) Allowable cost. A community college may be reimbursed from certificate proceeds for reasonable administrative costs and legal fees incurred prior to the date of the preliminary agreement. Training costs incurred prior to the date of the preliminary agreement are not reimbursable.

5.4(6) Cost standards. The standard vocational preparation guide, as provided in the Dictionary of Occupational Titles for determining classification of jobs and the length of allowable training periods, shall be used by a community college in estimating the cost of on-the-job training. Where these standards are not appropriate, reasonable time periods for on-the-job training shall be based on the standard vocational preparation guide for similar classifications. Reimbursement of employee's wages for on-the-job training shall not exceed 50 percent of the new employee's annual gross payroll costs. The maximum project total for on-the-job training shall not exceed 50 percent of the total available training proceeds.

5.4(7) *Indirect cost rate.* The community colleges may be reimbursed indirect costs at the rate to be determined annually. The rate will be determined by the department and the Iowa department of education. The indirect cost rate and procedures will be communicated to the community colleges by the department. The rate will be based on function five and nine expenditures of the Iowa area community college uniform accounting system. The indirect cost rate shall be applied against the total issuance. Acceptable accounting procedures, as determined by the community college with the department of education and the state auditor, shall be followed in claiming indirect costs.

5.4(8) *Equipment.* Equipment required for training will be an allowable provision in a training project as described in Iowa Code chapter 260E. The cost of equipment used in training shall be prorated to the project in that proportion chargeable to the training program, and the remainder of the cost of such equipment will be the responsibility of the employer. Proceeds of the certificates shall not be used directly or indirectly to finance land, facilities or depreciable property to be owned by the employer or other private person.

261—5.5(15,260E) Resolution on incremental property tax. A copy of the resolution by the board of directors of the community college, as described in Iowa Code section 260E.4, shall be forwarded to the county auditor(s) affected by it within the merged area.

5.5(1) A community college board of directors anticipating the use of the incremental property tax as a source of funding for an eligible training program is referred to Iowa Code sections 403.19 and 403.21, and shall follow procedures as described therein, as provided in Iowa Code section 260E.4.

5.5(2) Reserved.

261—5.6(15,260E) New jobs withholding credit.

5.6(1) *Notification of payments and claims for credit.* Withholding credit for payments to community colleges shall be claimed by an employer on the semimonthly, monthly, or quarterly deposit forms during the calendar quarter in which payment is made to a community college. No credit may be claimed until the payment has been made to a community college. The community college shall notify the department of revenue and finance within 30 days following the end of a calendar quarter of payments covering withholding credits that have been received for the quarter. If a credit is claimed by an employer and payment is not made to the community college, the amount of credit will be considered to be a delinquent withholding liability and will be subject to assessment of tax, penalty, and interest according to the provisions of Iowa Code section 422.16(10).

5.6(2) *Notification of termination of credit.* Community colleges shall notify in writing the department of revenue and finance and the department within 30 days when it is determined that payments for job training withholding credits will no longer be applied against the costs of a project. At project completion, any excess payments for jobs training withholding credits received by the community college will be forwarded to the department of revenue and finance.

261—5.7(15,260E) Notice of intent to issue certificates. The notice of intent to issue certificates as provided in Iowa Code section 260E.6, subsection 5, shall be published by the community college in a legal newspaper in the merged area. The application for an allocation of Iowa industrial new jobs training certificates must be submitted to the department, in the format determined by the department, by an official of the community college, or an attorney or agent of the community college, prior to the issuance of certificates for that portion of the issuance that is tax-exempt. Notice of issuance of certificates must be filed with the department within ten days of the issuance and delivery of certificates.

261—5.8(15,260E) Standby property tax levy. A standby property tax levy shall be collected at any time other funds are insufficient as provided in Iowa Code section 260E.6, subsection 4. The county auditor shall be notified by the community college board of directors on an annual basis to adjust the annual standby tax.

261—5.9(15,260E) Reporting. An annual report shall be completed by the community college on or before August 15. The format and content will be determined by the department. The report shall include a report of the incremental property taxes and new jobs credits from withholding generated for the fiscal year, a specific description of the training conducted, the number of employees provided program services under the project, the median wage of employees in the new jobs in the project, and the administrative costs directly attributable to the project.

261—5.10(15,260E) Monitoring.

5.10(1) Monitoring system. Each community college shall establish a monitoring system which includes, at a minimum, a review of the business's compliance with the Act, these rules and the training agreement.

5.10(2) Annual review. Monitoring shall be conducted by the community colleges at least annually.

5.10(3) Documentation. Each community college shall document its monitoring efforts and promptly notify the department, on the forms provided, whenever it identifies an event(s) of default.

261—5.11(15,260E) State administration. The community colleges shall submit 1 percent of the gross sale of certificates within 30 days of receipt of proceeds from a sale of certificates to the department to defray administrative costs.

261—5.12(15,260E) Coordination with communities. The community colleges will follow the provisions of Iowa Code section 403.21.

261—5.13(15,76GA,SF2351) Supplemental 1½ percent withholding. For the purposes of determining new jobs training programs established under Iowa Code chapter 260E eligible to receive supplemental new jobs credit of 1½ percent of gross wages from withholding, the following criteria shall be met:

5.13(1) Only those new jobs training programs established by a 260E final agreement, approved by the community college board of directors after June 30, 1996, and including a provision for a supplemental new jobs credit from withholding from jobs created under the agreement are eligible for the supplemental credit.

5.13(2) For purposes of determining the average county or average regional wage, the department shall calculate the average county wage utilizing statistics compiled for the community economic betterment program. The average county wage will be calculated utilizing the most recent four quarters of historical wage averages available at the beginning of each fiscal year. The regional average wage shall be calculated based on service delivery areas as defined in Iowa Code section 84B.2. This average will be the sum of the county averages divided by the number of counties in the region.

5.13(3) The department will make available to the community colleges the averages at the beginning of each state fiscal year for use in determining supplemental withholding credit eligibility for that fiscal year.

5.13(4) For the purposes of determining eligibility for the supplemental credit, starting wages for a new job shall be determined on a one-time basis by the community college as follows:

a. The employer shall agree, as a part of the final agreement, to pay starting wages which are equal to or greater than the county or regional average, whichever is lower.

b. Only those individual jobs for which the starting wage is equal to or greater than the average county wage or average regional wage, whichever is lower, are eligible for the supplemental new jobs credit from withholding.

c. For purposes of comparing starting wages to the county or regional average, the community college shall reduce the annual gross wages to be paid for the job to an hourly wage based upon a 40-hour workweek.

d. Such determination by the community college shall be conclusive and the individual job shall thereafter be eligible and may be used for the supplemental credit from withholding to fund the supplemental project under the agreement.

e. Future annual changes in county or regional averages shall not affect the eligibility of those jobs that have been determined by the community college to be eligible at the time of final agreement for a project.

5.13(5) The community college may require the employer to supply appropriate payroll records and projections to verify eligibility of the supplemental credit.

This rule is intended to implement the provisions of 1996 Iowa Acts, Senate File 2351, section 8, effective July 1, 1996, and does not affect agreements included in Iowa Code section 15.326, New Jobs and Income Act, Iowa Code section 15A.9, Quality Jobs Enterprise Zone, or those agreements under Iowa Code chapter 260E, Iowa Industrial New Jobs Training Program, which do not contain a provision for a supplemental new jobs credit from withholding.

These rules are intended to implement Iowa Code chapter 260E and Iowa Code chapter 403 as it relates to chapter 260E.

[Filed emergency 8/9/83—published 8/31/83, effective 8/9/83]

[Filed 11/18/83, Notice 8/31/83—published 12/7/83, effective 1/11/84]

[Filed emergency 12/19/86—published 1/14/87, effective 12/19/86]

[Filed 8/14/87, Notice 7/1/87—published 9/9/87, effective 10/14/87*]

[Filed emergency 2/25/88—published 3/23/88, effective 2/25/88]

[Filed 3/16/95, Notice 12/7/94—published 4/12/95, effective 5/17/95]

[Filed emergency 6/28/96—published 7/17/96, effective 7/1/96]

[Filed 9/20/96, Notice 7/17/96—published 10/9/96, effective 11/13/96]

[Filed 7/24/97, Notice 2/12/97—published 8/13/97, effective 9/17/97]

*Effective date (10/14/87) delayed until adjournment of the 1988 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its October 1987 meeting.